



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS  
WASHINGTON, D.C. 20314-1000

REPLY TO  
ATTENTION OF:

CEPR-P (715)

*3 April 2003*


MEMORANDUM FOR COMMANDERS/DIRECTORS, ALL USACE COMMANDS  
ATTN: DIRECTORS/CHIEFS OF CONTRACTING

SUBJECT: PARC Instruction Letter (PIL) 2003-09

1. Reference SAAL-PP memorandum dated 28 March 2003, Subj: Delegation of Authority for Procurements for Defense Against or Recovery from Terrorism or Nuclear, Biological, Chemical or Radiological Attack.
2. Sections 852 through 858 of the Homeland Security Act (P.L.107-296) provide federal agencies with certain authorities that increase procurement flexibility. These provisions and increases to dollar thresholds are summarized in paragraphs a. thru g. in the Background Paper enclosed to the referenced memo.
3. Public Law 107-296, increased the amount of the micro-purchase threshold and the simplified acquisition threshold, and provided streamlined procedures for procurements of supplies or services that are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack.
4. By the authority delegated to me by the Head of the Contracting Activity, I hereby re-delegate to Chiefs of the Contracting Offices authority to make determinations consistent with the intent of Public Law 107-296, that applicable supplies or services are to be used to facilitate defense against or recovery from terrorism, or nuclear, biological, chemical, or radiological attack. Such determinations shall be made only on an individual, and not a class basis, and shall be documented in the contract file.
5. This delegation expires on 24 November 2003, unless sooner rescinded in writing.

FOR THE COMMANDER:

Encl

  
BUNNATINE H. GREENHOUSE  
Principal Assistant Responsible  
for Contracting



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY  
ACQUISITION LOGISTICS AND TECHNOLOGY  
103 ARMY PENTAGON  
WASHINGTON DC 20310-0103

28 MAR 2003



SAAL-PP

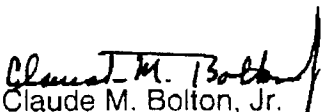
MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Delegation of Authority for Procurements for Defense Against  
or Recovery from Terrorism or Nuclear, Biological, Chemical  
or Radiological Attack

Title VIII, Subtitle F of the Homeland Security Act, Public Law 107-296, increased the amount of the micro-purchase threshold and the simplified acquisition threshold. It also provided streamlined procedures for procurements of supplies or services that the head of an executive agency determines, under Section 852 of the Act, are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack. An enclosed background paper briefly describes Sections 852 through 858 (Enclosure 1). By the enclosed memorandum dated March 26, 2003, the Secretary of the Army delegated the authority to make this determination to the Assistant Secretary of the Army (Acquisition, Logistics and Technology) (Enclosure 2).

I hereby further delegate the authority to make the above determination to each Army Head of Contracting Activity, and I authorize further delegation to any official in contracting channels, who is at least one level above the contracting officer. The basis for each determination made pursuant to Section 852 of the Homeland Security Act shall be documented in the contract file. Such determinations shall be made only on an individual, and not a class, basis.

This delegation expires on November 24, 2003, unless sooner rescinded in writing.

  
Claude M. Bolton, Jr.  
Assistant Secretary of the Army  
(Acquisition, Logistics and Technology)

Enclosures

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## BACKGROUND PAPER

### Delegation of Authority for Procurements for Defense Against or Recovery from Terrorism or Nuclear, Biological, Chemical or Radiological Attack

The purpose of this paper is to provide background information in support of the delegation of authority under Section 852 of the Homeland Security Act, P.L. 107-296 from the Secretary of the Army to the Assistant Secretary of the Army (Acquisition, Logistics and Technology). Title VIII, Subtitle F (Sections 852-858) of the Homeland Security Act increased the amount of the micro-purchase threshold and the simplified acquisition threshold, and provided streamlined procedures for procurements of supplies or services that the head of the executive agency determines, under Section 852 of the Act, are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack. The Act covers solicitations issued during the one-year period starting on the date of enactment (November 25, 2002), but the Act does not become effective until 60 days after enactment (January 24, 2003). These authorities have been implemented in the Federal Acquisition Regulation, through Federal Acquisition Circular (FAC) 2001-12. The FAC, however, retains the requirement that the Section 852 determination be made by the head of the agency.

Sections 852 through 858 of the Homeland Security Act provide Federal agencies with certain authorities that increase procurement flexibility. These provisions are summarized below:

a. Section 852 states that the authorities granted in Subtitle F apply to acquisitions of supplies or services by or for an executive agency that, as determined by the head of the executive agency, are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack, but only if a solicitation of offers for the procurement is issued before November 25, 2003.

b. Section 853 increases the simplified acquisition threshold to \$200,000 (\$300,000 for contracts awarded and performed outside the United States) for acquisitions referred to in Section 852 that are carried out in support of a humanitarian or peacekeeping operation or a contingency operation. The FAC 2001-12 revised the definition of simplified acquisition threshold in the Federal Acquisition Regulation (FAR) 2.101 to reflect this change. As further required by Section 853, FAR 19.502-2(a) has been amended to increase the small business reservation to mirror these increased thresholds.

c. Section 854 increases the micro-purchase threshold to \$7,500 for acquisitions referred to in Section 852. To implement this change, FAC 2001-12 modifies (1) the definition of micro-purchase threshold at FAR 2.101, (2) guidance on the use of micro-purchase authority at FAR 13.201, and (3) coverage at FAR 19.502-1 addressing the applicability of set-aside requirements.

d. Section 855 allows agencies to treat acquisitions referred to in Section 852 as commercial items and removes the \$5,000,000 limitation for the Test Program for Certain Commercial Items for these acquisitions. The FAC 2001-12 revises FAR 12.102(f), which addresses the applicability of commercial item policies, and FAR Subpart 13.5 on the use of the commercial items test authority.

e. Section 856 provides for the use of streamlined acquisition authorities and procedures authorized by law for acquisitions referred to in Section 852 and waives the dollar limitations on sole source 8(a) acquisitions and HUBZone sole source awards for these acquisitions. The FAC 2001-12 revises the applicable sections of FAR 19.805-1 and FAR 19.1306.

f. Section 857 provides for a review and report by the Comptroller General of the extent to which procurements of property and services have been made under these authorities.

g. Section 858 establishes a requirement for ongoing market research to identify capabilities that are available for meeting requirements in furtherance of defense against or recovery from terrorism or nuclear, biological, chemical or radiological attack. The FAC 2001-12 implements these provisions at FAR 10.001.

To utilize these increased acquisition dollar thresholds, the head of the executive agency (i.e., the Secretary of the Army) must make certain determinations with regard to the procurement of property or services that these acquisitions are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack. The delegation of authority from the Secretary of the Army to the Assistant Secretary of the Army (Acquisition, Logistics and Technology) is urgently needed to effectively utilize the authority for its stated purposes. If delegated by the Secretary of the Army, the Assistant Secretary of the Army (Acquisition, Logistics and Technology) may re-delegate, in writing, with or without the authority to make successive re-delegations and under such terms, conditions and limitations as may be deemed appropriate.

Stephen L. Lake, 703-604-7110



SECRETARY OF THE ARMY  
WASHINGTON

MAR 26 2003



DELEGATION OF AUTHORITY

SUBJECT: Delegation of Authority for Procurements for Defense Against or Recovery From Terrorism or Nuclear, Biological, Chemical or Radiological Attack

Title VIII, Subtitle F of the Homeland Security Act, Public Law 107-296, increased the amount of the micro-purchase threshold and the simplified acquisition threshold, and provided streamlined procedures for procurements of supplies or services that the head of the executive agency determines, under Section 852 of this Act, are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack. The authority to make this head of agency determination is hereby delegated, to the full extent of the law, to the Assistant Secretary of the Army (Acquisition, Logistics and Technology).

This authority may be re-delegated in writing, with or without the authority to make successive re-delegations and under such terms, conditions and limitations as may be deemed appropriate.

This delegation expires on November 24, 2003, unless sooner rescinded by me in writing.

Thomas E. White

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